

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 841**

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**Introduced by Assembly Member Torres**

February 21, 2013

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An act to amend Section 21608.5 of the Business and Professions Code, relating to junk dealers and recyclers.

### LEGISLATIVE COUNSEL'S DIGEST

AB 841, as amended, Torres. Junk dealers and recyclers: nonferrous materials: payment.

Existing law prohibits a junk dealer or a recycler from providing payment for nonferrous material, as defined, unless the payment is made by cash or check, the check is mailed or the cash or check is provided no earlier than 3 days after the date of sale, and other specified requirements are met. ~~Existing law exempts from these provisions a transaction having a value of not more than \$20 when the majority of the purchase is for beverage containers made of nonferrous material and no copper or copper alloy is included.~~

This bill would allow payment for nonferrous materials only by check marked *mailed* to the seller's address. ~~The bill would remove the \$20 limit for a transaction consisting primarily of beverage containers made of nonferrous material to be exempt from these provisions. The bill would also exempt from these provisions the redemption of any nonferrous material, including copper and copper alloy, with a value of not more than \$20 per transaction.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 21608.5 of the Business and Professions  
2     Code is amended to read:

3     21608.5. (a) A junk dealer or recycler in this state shall not  
4     provide payment for nonferrous material unless, in addition to  
5     meeting the written record requirements of Sections 21605 and  
6     21606, all of the following requirements are met:

7     (1) The payment for the material is made by check. The check  
8     shall be mailed to the seller at the address provided pursuant to  
9     paragraph (3) .

10    (2) At the time of sale, the junk dealer or recycler obtains a clear  
11    photograph or video of the seller.

12    (3) (A) Except as provided in subparagraph (B), the junk dealer  
13    or recycler obtains a copy of the valid driver's license of the seller  
14    containing a photograph and an address of the seller, a copy of a  
15    state or federal government-issued identification card containing  
16    a photograph and an address of the seller, a passport from any  
17    other country in addition to another item of identification bearing  
18    an address of the seller, or a Matricula Consular in addition to  
19    another item of identification bearing an address of the seller.

20    (B) If the seller prefers to have the check for the material mailed  
21    to an alternative address, other than a post office box, the junk  
22    dealer or recycler shall obtain a copy of a driver's license or  
23    identification card described in subparagraph (A), and a gas or  
24    electric utility bill addressed to the seller at that alternative address  
25    with a payment due date no more than two months prior to the  
26    date of sale. For purposes of this paragraph, "alternative address"  
27    means an address that is different from the address appearing on  
28    the seller's driver's license or identification card.

29    (4) The junk dealer or recycler obtains a clear photograph or  
30    video of the nonferrous material being purchased.

31    (5) The junk dealer or recycler shall preserve the information  
32    obtained pursuant to this subdivision for a period of two years after  
33    the date of sale.

34    (6) (A) The junk dealer or recycler obtains a thumbprint of the  
35    seller, as prescribed by the Department of Justice. The junk dealer  
36    or recycler shall keep this thumbprint with the information obtained  
37    under this subdivision and shall preserve the thumbprint in either

1 hardcopy or electronic format for a period of two years after the  
2 date of sale.

3 (B) Inspection or seizure of the thumbprint shall only be  
4 performed by a peace officer acting within the scope of his or her  
5 authority in response to a criminal search warrant signed by a  
6 magistrate and served on the junk dealer or recycler by the peace  
7 officer. Probable cause for the issuance of that warrant must be  
8 based upon a theft specifically involving the transaction for which  
9 the thumbprint was given.

10 (b) Paragraph (1) of subdivision (a) shall not apply if, during  
11 any three-month period commencing on or after the effective date  
12 of this section, the junk dealer or recycler completes five or more  
13 separate transactions per month, on five or more separate days per  
14 month, with the seller and, in order for paragraph (1) of subdivision  
15 (a) to continue to be inapplicable, the seller must continue to  
16 complete five or more separate transactions per month with the  
17 junk dealer or recycler.

18 (c) This section shall not apply if, on the date of sale, the junk  
19 dealer or recycler has on file or receives all of the following  
20 information:

21 (1) The name, physical business address, and business telephone  
22 number of the seller's business.

23 (2) The business license number or tax identification number  
24 of the seller's business.

25 (3) A copy of the valid driver's license of the person delivering  
26 the nonferrous material on behalf of the seller to the junk dealer  
27 or the recycler.

28 (d) (1) This section shall not apply to the purchase of nonferrous  
29 material *having a value of not more than twenty dollars (\$20) in*  
30 *a single transaction* , when the majority of the transaction is for  
31 the redemption of beverage containers under the California  
32 Beverage Container Recycling and Litter Reduction Act, as set  
33 forth in Division 12.1 (commencing with Section 14500) of the  
34 Public Resources Code.

35 (2) Materials made of copper or copper alloys shall not be  
36 purchased under this subdivision.

37 (e) This section shall not apply to coin dealers or to automobile  
38 dismantlers, as defined in Section 220 of the Vehicle Code.

1     ~~(f) This section shall not apply to the redemption of nonferrous~~  
2     ~~material having a value of not more than twenty dollars (\$20) in~~  
3     ~~a single transaction.~~

4     ~~(g)~~

5     (f) For the purposes of this section, “nonferrous material” means  
6     copper, copper alloys, stainless steel, or aluminum, but does not  
7     include beverage containers, as defined in Section 14505 of the  
8     Public Resources Code, that are subject to a redemption payment  
9     pursuant to Section 14560 of the Public Resources Code.

10    ~~(h)~~

11    (g) This section is intended to occupy the entire field of law  
12    related to junk dealer or recycler transactions involving nonferrous  
13    material. However, a city or county ordinance, or a city and county  
14    ordinance, relating to the subject matter of this section is not in  
15    conflict with this section if the ordinance is passed by a two-thirds  
16    vote and it can be demonstrated by clear and convincing evidence  
17    that the ordinance is both necessary and addresses a unique problem  
18    within and specific to the jurisdiction of the ordinance that cannot  
19    effectively be addressed under this section.